

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

AARON CRAWFORD

Defendant and Appellant.

B244424

(Los Angeles County
Super. Ct. No. BA381011)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Clifford L. Klein, Judge. Affirmed.

Jolene Larimore, under appointment by the Court of Appeal, for Defendant
and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney
General, Lance E. Winters, Assistant Attorney General, Steven D. Matthews and
Connie H. Kan, Deputy Attorneys General, for Plaintiff and Respondent.

Aaron Crawford appeals from the judgment entered following a jury trial that resulted in his conviction of assault with a deadly weapon, a knife, with a true finding appellant personally inflicted great bodily injury. (Pen. Code, §§ 245, subd. (a)(1), 12022.7, subd. (a).) The trial court sentenced appellant to seven years in state prison, consisting of an upper term of four years enhanced by a consecutive term of three years for the infliction of bodily injury.

BACKGROUND

Appellant's only contention is one of sufficiency of the evidence. Hence, we view the trial evidence in the light most favorable to the judgment. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.)

1. The prosecution case.

On January 19, 2011, Ferdy Martinez (Martinez) lived in, and managed, a large apartment complex with an open center courtyard located at 8000 South Broadway in Los Angeles. Martinez testified that after becoming manager of the complex, he had hired security guards. Appellant, who lived a block away with his mother, persisted in hanging out daily in the complex's stairwells and hallways. Appellant attracted a crowd of older teenagers who lived in and outside the complex. Appellant was age 26. Appellant apparently was drinking alcoholic beverages and smoking marijuana and cigarettes with the "kids."

Appellant's former girlfriend, G.M. (G.), age 18, lived in unit 305 of the complex with her parents and siblings, including sister C.M. (C.), age 18 at the time of trial. G. had had a child with appellant, Naveah, who was two years old. The sisters were related to a number of tenants who lived in the building. Appellant hung out with the sisters and the older teenagers of several other tenants, including 17-year-old D.T., who was also friendly with the sisters. When Martinez previously had asked appellant to leave the complex, appellant protested he was visiting his daughter, but Martinez saw no evidence of visitation.

Martinez was receiving numerous noise complaints in the evenings as a result of the teenagers congregating with appellant in the complex's common areas. Martinez had posted "No trespassing" signs and personally told appellant he must leave the premises unless he was visiting friends or relatives inside their apartments. Appellant did not comply with Martinez's directions and became nasty if confronted. One of the security guards, Abass Djibril (Djibril), testified he had had no particular previous trouble with appellant, but when appellant was drinking alcoholic beverages, he would "act up."

During the evening hours of January 19, 2011, Martinez directed Djibril, one of the two security guards on the premises, to ask appellant to leave the complex. Appellant and a group of six other youths, including D.T. and C., had been sitting in a stairwell and talking, drinking beer and smoking marijuana. After several contacts, Djibril asked appellant to leave the complex and threatened he would telephone the police if appellant and the youths did not leave or enter their apartment units. Appellant and the youths began walking downstairs. Djibril followed, and appellant protested to Djibril and swore as he walked down the south stairwell with Djibril behind him. Appellant had previously told Djibril that he would kill anyone who telephoned the police regarding his unwanted presence in the complex.¹

At the bottom of the stairwell, appellant threw beer on Djibril's security guard uniform shirt, which irritated Djibril as he was a Muslim and wanted no physical contact with an alcoholic beverage. Djibril removed his uniform shirt and dropped it on the stairwell. Appellant suddenly stopped and turned to face Djibril. There was an exchange of words, and Djibril repeatedly asked appellant to leave the building. Appellant pushed Djibril, and Djibril, in turn, pushed appellant. Appellant, who was considerably smaller than Djibril, punched Djibril, and Djibril punched appellant. The men pushed and shoved at one another. Appellant took a knife out of his pocket, unfolded it behind his back, then

¹ The information charged appellant with attempted deliberate and premeditate murder, as well as felonious assault, but the jury found appellant not guilty of the charge of attempted murder.

quickly stabbed Djibril three times, twice in the upper abdomen and once under the armpit. Djibril disengaged, realized he had been stabbed, and walked through the first floor garage to the outside, telephoning 9 1-1. He flagged down a police car that arrived almost immediately at the complex and collapsed in the street.

Los Angeles Police Officer Michael Chapman (Officer Chapman) and his partner briefly interviewed Djibril as he lay on the ground until the ambulance arrived. Djibril said the officers could find appellant by speaking to the tenants in unit 305.

Djibril was hospitalized for three days and in intensive care for two of those days. He was presently disabled and upset he could no longer sit or stand comfortably so he could work. The doctor at the hospital testified stabbing another person as Djibril was stabbed can result in puncturing a lung or the heart and result in cardiac arrest.

After the stabbing, appellant quickly fled through the ground floor stairwell door to the complex's playground and out a south gate. Appellant could not be found at his nearby residence that evening, nor at home nor in the area during the ensuing eight months. On August 15, 2011, he was arrested.

D.T., who was with appellant during the stabbing, was called as a prosecution witness. On the evening of the stabbing, D.T. had told Officer Chapman the details of what had occurred preceding the stabbing. D.T. said Djibril asked appellant to leave when appellant was in the fourth floor hallway, and appellant refused to leave promptly. When Djibril threatened to call the police, appellant said something like, "F--- the police. I'll kill anyone who calls the police on me." Appellant and his teenage friends walked downstairs to leave. There was a verbal exchange at the bottom of the stairwell between Djibril and appellant. Djibril had touched appellant on the face with one finger while pointing at appellant or gesturing. Appellant then pushed Djibril, and there was a pushing match or struggle. Appellant took out a knife and held it behind his back. Appellant stabbed Djibril. Djibril tried to flee after the initial blow, but appellant quickly stabbed him twice more. After Djibril disengaged from appellant, appellant ran out of the complex.

A month after the stabbing, D.T. told another Los Angeles police officer that Djibril had pushed appellant out the door to the playground. Appellant pushed back in, Djibril “socked” appellant, and appellant took out his knife and stabbed Djibril. D.T. said nothing about seeing a knife in Djibril’s hand.

At trial, D.T. testified and recanted his out-of-court statements and told several versions of the details of the stabbing. Essentially, in his trial testimony, D.T. supported the claim of self-defense. D.T. testified he saw Djibril draw a knife and approach appellant with it. The men struggled with one another. D.T. saw appellant make arm motions as if he was stabbing Djibril, and then appellant stepped back from Djibril with a knife in his hand.

In his testimony, Djibril had acknowledged he had been carrying a pocket knife with an inch-and-a-half blade. However, he claimed he never took the small pocket knife out of his pocket. The prosecutor showed to the jury a video surveillance tape from a camera located inside the first floor parking garage. But it showed only a small portion of the confrontation from a distance.

2. The defense.

Appellant testified on his own behalf, and his trial counsel argued self-defense. Appellant claimed he just wanted C. to braid his hair before he left the building that evening. Thus, he initially refused to leave, and Djibril would not permit him to enter a unit rather than leave after he accidentally dropped a can of energy drink off a fourth floor railing. Appellant claimed Djibril was angry and yelling at appellant and being unreasonable. Appellant protested he should not be required to leave as he had not done anything wrong. He was deliberately loud and noisy as he walked down the stairwell. He wanted all the tenants in the complex to be aware of how he was being treated. Djibril followed appellant and his friends downstairs. There was no beer-throwing incident, and appellant denied the use of alcohol and marijuana in the complex.

At the bottom of the stairwell, appellant asserted Djibril stood face-to-face with him and made a motion with his hand to his side that made appellant believe Djibril was removing his knife from his pocket. Appellant knew Djibril carried a knife. Then Djibril

touched appellant with his finger while pointing at appellant and berating him. Appellant pushed Djibril away. Djibril, a much larger man, grabbed appellant on the throat with his left hand.² Appellant used both hands to break the hold and pushed Djibril off. Djibril grabbed appellant with both hands around the neck and jerked appellant back and forth. Appellant was against a wall, and he was afraid he was going to black out. Djibril punched him, and appellant started to fall. Djibril punched him several times more, grabbing and pulling and punching at the same time. Appellant saw Djibril take a knife from his waistband, and Djibril used it to poke appellant in an arm appellant had raised defensively. In response, appellant took out a small knife he had in a back pocket with an inch-and-a-half blade, and he stabbed Djibril.

Appellant fled out the south stairwell door. Appellant did not report the assault because he is suspicious of the police. He was impeached with two prior convictions of a felony involving moral turpitude. He was also impeached with a recording of jail telephone call to C. In the call, appellant asked her not to cooperate with the authorities and instructed her to claim the conduct Djibril had engaged in prior to the stabbing had frightened her.

C. and G. testified as defense witnesses. They claimed to have been present during the stabbing, and Djibril had pulled out a knife before appellant used his own knife on Djibril, supporting appellant's claim of self-defense. They said Djibril had been choking appellant, and appellant partially fell or fell before the stabbing. On the evening after the stabbing, however, G. had told Officer Chapman she was not "involved." On the evening of the stabbing, C. told the same officer about appellant's threat to kill whoever telephoned the police. C. claimed appellant threw beer on Djibril and Djibril had accidentally touched appellant during the finger-pointing part of the verbal confrontation. She made no mention of Djibril assaulting appellant with a knife. During

² Djibril was 5 feet 10 inches tall and weighed 200 pounds. Appellant was 5 feet 7 inches tall and weighed about 136 pounds.

the eight months following the stabbing, appellant had no contact with the M. After appellant's arrest, appellant frequently spoke by telephone from the jail to G. and C.

CONTENTION

Appellant contends the evidence is insufficient to show that the prosecution carried its burden of disproving his claim of self defense.

1. *Standard of review.*

Recently, in *People v. Whisenhunt* (2008) 44 Cal.4th 174, the California Supreme Court summarized the well-established standard of review. “ ‘In reviewing a challenge to the sufficiency of the evidence, we do not determine the facts ourselves. Rather, we “examine the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence—evidence that is reasonable, credible and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.” [Citations.] We presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence. [Citation.] [¶] The same standard of review applies to cases in which the prosecution relies primarily on circumstantial evidence and to special circumstance allegations. [Citation.] “[I]f the circumstances reasonably justify the jury’s findings, the judgment may not be reversed simply because the circumstances might also reasonably be reconciled with a contrary finding.” [Citation.] We do not reweigh evidence or reevaluate a witness’s credibility. [Citation.]’ [Citation.]” (*Id.* at p. 200.)

“ ‘ “Although an appellate court will not uphold a judgment or verdict based upon evidence inherently improbable, testimony which merely discloses unusual circumstances does not come within that category. [Citation.] To warrant the rejection of the statements given by a witness who has been believed by the [trier of fact], there must exist either a physical impossibility that they are true, or their falsity must be apparent without resorting to inferences or deductions. [Citations.] Conflicts and even testimony which is subject to justifiable suspicion do not justify the reversal of a judgment, for it is the exclusive province of the trial judge or jury to determine the credibility of a witness

and the truth or falsity of the facts upon which a determination depends. [Citation.]” . . . ’ [Citation.]” (*People v. Barnes* (1986) 42 Cal.3d 284, 303-304, 306.)

The uncorroborated testimony of a single witness is sufficient to sustain a conviction unless it is physically impossible or inherently improbable. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) Indeed, “ ‘[t]he testimony of a single witness is sufficient to uphold a judgment even if it is contradicted by other evidence, inconsistent or false as to other portions. [Citations.]’ ” (*In re Robert V.* (1982) 132 Cal.App.3d 815, 821.)

2. Analysis.

In a criminal case, it is well settled, indeed, virtually axiomatic, that the prosecution has the burden of proof beyond a reasonable doubt. (*People v. Neidinger* (2006) 40 Cal.4th 67, 72.) A defendant need only raise a reasonable doubt regarding an affirmative defense. (*Id.* at p. 76; see also *People v. Mower* (2002) 28 Cal.4th 457, 479 & fn. 7.)

Appellant argues if this court considers all the evidence in the case, it must reverse as there is no credible trial evidence that he acted unlawfully. He urges Djibril’s testimony in large part agreed with his own version of the facts. He claims he had the right to defend himself against the initial minor touching by Djibril – the poking in the face. Thereafter, “the fight was on,” and it was not a fair fight. Djibril was considerably larger than appellant, and defendant believed he was about to suffer great bodily injury. Appellant claims he used only the force necessary to get away from Djibril, and Djibril’s account of the assault was uncorroborated. The evidence, taken in the light most favorable to the judgment, discloses a valid claim of self-defense.

Appellant’s contention amounts to nothing more than an effort to have this court reweigh the evidence presented to the jury and determine appellant’s guilt, something we cannot do. (*People v. Culver* (1973) 10 Cal.3d 542, 548.) Here, Martinez’s and Djibril’s testimony was reasonable, of solid value and credible. It was corroborated by the witnesses’ initial statements to the police. There was ample evidence appellant was trespassing inside the complex, and he let it be known he would kill anyone who interfered with him doing exactly as he pleased inside the complex. Appellant threw beer

on Djibril apparently to make Djibril angry and to provoke a quarrel or fight with the intent to create an excuse to use the deadly force he had previously threatened. Djibril asserted appellant resorted to physical force in the first instance and denied his use of a knife. At the very least, the evidence supports a conclusion appellant's use of a knife in the circumstances constituted a use of excessive force. Appellant showed a consciousness of guilt by fleeing the neighborhood after the stabbing and by attempting to influence witness testimony. It was up to the jury to decide which version of the events was credible, and the jury's verdict implies it believed Djibril.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

KLEIN, P. J.

We concur:

CROSKEY, J.

ALDRICH, J.